

Answer to Question 9

Hibernia Atlantic U.S. LLC (“Hibernia Atlantic US”) requests streamlined processing of this Application pursuant to Section 63.12 of the Commission’s Rules, 47 C.F.R. § 63.12. This Application qualifies for streamlined treatment under Section 63.12 for the following reasons.

While Hibernia Atlantic US is a foreign carrier or is affiliated with foreign carriers in certain foreign markets, neither Hibernia Atlantic US nor its foreign carrier affiliates have market power in any foreign market. Hibernia Atlantic US and its affiliates Hibernia Atlantic Cable System Limited, Hibernia Atlantic (UK) Limited, and Hibernia Atlantic Communications (Canada) Company (Hibernia Atlantic Cable System Limited, Hibernia Atlantic (UK) Limited, and Hibernia Atlantic Communications (Canada) Company, collectively the “Hibernia Affiliates”) are each wholly-owned indirect subsidiaries of Columbia Ventures Corporation (“CVC”). Hibernia Atlantic US and the Hibernia Affiliates have ownership interests in the Hibernia Atlantic cable system (formerly known as the 360atlantic Cable Network), a submarine cable network currently extending between the U.S., Canada, the U.K. and Ireland.<sup>1</sup> In conjunction with the services they provide between the U.S., Canada, the U.K. and Ireland, Hibernia Atlantic US and the Hibernia Affiliates also provide service in Belgium, France, the Netherlands, and Germany. Neither Hibernia Atlantic US nor any of the Hibernia Affiliates have market power in any of the foreign countries in which they provide service, as neither Hibernia Atlantic US nor any of the Hibernia Affiliates hold a 50 percent market share in the international transport and the local access markets in these countries.

Hibernia Atlantic US is also affiliated with Magnet Networks Limited (“Magnet Networks”), a provider of voice, data, and television services in Ireland. Magnet Networks is a wholly-owned indirect subsidiary of CVC. Magnet Networks does not have market power in Ireland, as Magnet Networks does not hold a 50 percent market share in the international transport and the local access markets in Ireland.

Finally, Hibernia Atlantic US is affiliated with European Access Providers Limited (“LEAP”), a competitive provider of wireless and Internet over DSL services in Ireland, and Pivotel Group Pty. Ltd. (“Pivotel”), a satellite and mobile services provider in Australia (Pivotel, LEAP, the Hibernia Affiliates and Magnet Networks, collectively hereinafter referred to as the “Affiliates”). Kenneth D. Peterson, Jr., a U.S. citizen who holds 100 percent of the ownership interest in CVC, owns 100 percent of the ownership interest in LEAP. Mr. Peterson and CVC each hold a 50 percent ownership interest in Pivotel. LEAP does not hold a 50 percent market share in the international transport and local access markets in Ireland. Similarly, Pivotel does not hold a 50 percent market share in the international transport and the local access markets in Australia. As

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<sup>1</sup> See IB File Nos. SCL-T/C-20021213-00104 and SCL-ASG-20021213-00103, granted Jan. 31, 2003, in DA No. 03-335, rel. Jan. 31, 2003.

such, neither LEAP nor Pivotal have market power in the countries in which they provide their services.

On all other routes, Hibernia Atlantic US is not a foreign carrier or affiliated with a foreign carrier. Furthermore, Hibernia Atlantic US is not affiliated with any dominant U.S. carrier. Accordingly, Hibernia Atlantic US qualifies for non-dominant treatment or a presumption of non-dominant treatment on all routes and this Application qualifies for streamlined processing.

Answer to Questions 11 and 12

*Section 63.18(i):* Hibernia Atlantic US certifies that Hibernia Atlantic US is a foreign carrier or is affiliated with foreign carriers in Australia, Canada, Ireland, the U.K., Belgium, France, the Netherlands, and Germany.

*Section 63.18(j):* Hibernia Atlantic US certifies that (i) Hibernia Atlantic US is a foreign carrier in Canada, Ireland, the U.K., Belgium, France, the Netherlands, and Germany; (ii) Hibernia Atlantic US does not control a foreign carrier in any foreign market; (iii) CVC -- an entity that holds a greater than twenty five (25) percent ownership interest in Hibernia Atlantic US -- controls one (1) or more foreign carriers in Canada, Ireland, the U.K., Belgium, France, the Netherlands, and Germany, while Mr. Peterson (a U.S. citizen who controls CVC) controls a foreign carrier in Australia and Ireland; and (iv) two or more foreign carriers (or parties that control foreign carriers) will not own, in the aggregate, more than twenty five (25) percent of Hibernia Atlantic US post-close and are parties to, or the beneficiaries of, a contractual relation affecting the provision or marketing of international basic telecommunications services in the United States.

*Section 63.18(k):* Australia, Canada, Ireland, the U.K., Belgium, France, the Netherlands, and Germany are all members of the World Trade Organization.

*Section 63.18(l):* Each of Hibernia Atlantic US and the Affiliates holds significantly less than fifty (50) percent market share in the international transport and local access markets in the foreign countries in which they provide service. Accordingly, Hibernia Atlantic US and the Affiliates each lack market power and Hibernia Atlantic US is entitled to a presumption of non-dominant treatment.

*Section 63.18(m):* See response to Section 63.18(l).